Criminal Writ. No. 110 of 2007.

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Sarabjit Kaur v State of Punjab.

PRESENT: Mr. Lakhwinder Singh Sidhu, Advocate,
for the petitioner.

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In this Criminal Writ Petition, a writ in the nature of habeas corpus is being sought on the ground that Master Happy Sharma, aged 4-5 years, is illegally detained by respondent No.4, who is his grand father.

The petitioner is wife of Sonu Sharma son of respondent No.4, with whom she got married on 25.3.2000. It is alleged that two issues were born out of the wedlock, namely, Happy Sharma (alleged detenue aged about 4-5 years) and a baby girl, namely, Preet Sharma, aged about ten months.

The desired writ has been sought by making all counts of allegations against the petitioner's husband and her father-in-law. It is alleged that the petitioner's husband is a drug addict who is never in his senses. Respondent No.4 – father-in-law of the petitioner is branded as a drunkard and a person of lose character, who allegedly tried to develop illicit relations with his elder daughter-in-law (Sunita) who is a widow.

On a query by the Court, it is not disputed that the petitioner's husband and her father-in-law are living together. Apart from the series of disputed facts, briefly noticed above, it is apparent that the petitioner has some matrimonial dispute with her husband, due to which she wants to secure the custody of her son, who, as of now, is in the custody of his first natural guardian, namely, his father. Be that as it may, since the allegations made by the petitioner are of such nature, that no definite opinion in relation thereto can be formed in these proceedings under Article 226 of the

Constitution of India.

Consequently, this petition is dismissed with liberty to the petitioner to initiate appropriate proceedings under the Hindu Minority and Guardianship Act, 1956, if so advised.

February 05, 2007 **(SURYA KANT)**
dinesh **JUDGE**